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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:
LEHMAN BROTHERS HOLDINGS INC., <i>et al.</i> ,	:
Debtors.	:
	Chapter 11
	Case No. 08-13555 (JMP)
	(Jointly Administered)
-----x	

***EX PARTE MOTION FOR LEAVE TO FILE
THE EXAMINER'S REPORT TEMPORARILY UNDER SEAL***

TO THE HONORABLE JAMES M. PECK,
UNITED STATES BANKRUPTCY JUDGE:

Anton R. Valukas, Esq., the examiner (the "Examiner") appointed for Lehman Brothers Holdings Inc. ("LBHI") and its affiliated debtors (collectively, the "Debtors") in the above-captioned bankruptcy cases, respectfully moves for entry of an order pursuant to 11 U.S.C. § 107 and Rule 9018 of the Federal Rules of Bankruptcy Procedure permitting the Examiner to file

temporarily under seal the report of his investigation and all appendices thereto (collectively, the “Report”). In support of his Motion, the Examiner states:

1. The Examiner has completed his Report and believes that it should be a public record open to examination. However, the Report must initially be filed under seal to address legitimate concerns about confidentiality and privilege, and seeks leave by this Motion to do so. With the filing of this Motion, the Examiner is also filing his Motion to Establish Procedures to Unseal the Report, in which the Examiner proposes to the Court his recommendation to address the concerns and allow the Report to become publicly available as soon as possible.

2. A substantial portion of the materials (the “Protected Information”) the Examiner collected in the course of his investigation was obtained from a diverse number of individual parties (the “Producing Parties”) pursuant to formal and informal protective orders, confidentiality stipulations, or confidentiality agreements (collectively, the “Confidentiality Agreements”). The Report, which is approximately 2200 pages (exclusive of appendices), quotes, paraphrases and otherwise divulges Protected Information so extensively that it is not practical to redact the Protected Information.

RELIEF REQUESTED

3. By this Motion, the Examiner respectfully requests that the Court enter an order authorizing the Examiner to file his Report under seal until further order of the Court.

BASIS FOR RELIEF

4. Section 107(b) of the Bankruptcy Code provides bankruptcy courts with the power to issue orders to protect entities from potential harm that may result from disclosure of certain confidential information. Bankruptcy Rule 9018 sets forth the procedures by which a party may move for relief under 11 U.S.C. § 107(b)(1), and provides, in pertinent part, that, “[o]n motion or

on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information, (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in any case under the Code, or (3) to protect governmental matters that are made confidential by statute or regulation.” Fed. R. Bankr. P. 9018.

5. Section 1106(b) of the Bankruptcy Code requires an examiner to file with the Court, as soon as practicable, a statement regarding his investigation. 11 U.S.C. § 1106(b); *Gitto v. Worcester Telegram & Gazette (In re Gitto Global Corp.)*, Nos. Civ. A. 05-10334-DPW, Civ. A. 05-10532-DPW, 2005 WL 1027348, *4 (D. Mass. May 2, 2005). Once filed with the Court, the examiner’s report is presumed to be a public document under 11 U.S.C. § 107(a). *Gitto*, 2005 WL 1027348, *4, *6; *In re Food Mgmt. Group, LLC*, 359 B.R. 543, 553 (Bankr. S.D.N.Y. 2007); *In re Fibermark, Inc.*, 330 B.R. 480, 505, 510 (Bankr. D. Vt. 2005). While the Examiner believes it appropriate under governing law to publish most or all of the Report, and while the Examiner intends that the Report ultimately be filed of record as a public document, the Examiner is obligated under the Confidentiality Agreements to limit the disclosure of Protected Information unless disclosure is consented to by the Producing Party or until further order of the Court.

NOTICE

6. The Examiner is filing this Motion on an *ex parte* basis so that the Examiner can file his Report with the Court as soon as practicable in accordance with 11 U.S.C. § 1106.

7. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Examiner respectfully requests that this Court enter an Order authorizing the Examiner to file his Report under seal until further order of the Court.

Dated: February 8, 2010
New York, New York

Respectfully submitted,

By: /s/ *Robert L. Byman*

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